MEMORIAL AND ARGUMENT

SUBMITTED TO THE

CHEROKEE COMMISSIONERS,

IN THE CLAIM OF

NANCY REED AND CHILDREN,

CHEROKEE INDIANS OF NORTH CAROLINA,

FOR THE

Value of a reservation of six hundred and forty acres of land,

GRANTED TO THEM UNDER THE EIGHTH ARTICLE OF THE CHEROKEE TREATY OF 1817, AS MODIFIED AND CONTINUED BY THE SECOND ARTICLE OF THE TREATY OF 1819.

ALSO,

A MEMORIAL OF THE CHEROKEE INDIANS,

AND

A REPORT

OF THE

COMMITTEE OF THE SENATE,

IN RELATION TO THE CLAIMS

OF THE

CHEROKEE INDIANS AGAINST THE UNITED STATES.

WASHINGTON, D. C.
KENNEDY & BROWN, PRINTERS.

1846.

TO THE

HON. EDWARD HARDEN AND BENJAMIN H. BREWSTER,

Commissioners under the Cherokee Treaty of 1835, *now in session in the Capitol of the United States.*

MEMORIAL OF NANCY REED,

A CHEROKEE WOMAN, IN FAVOR OF HERSELF AND CHILDREN,

For the value of a reservation of six hundred and forty acres of land, granted under the Cherokee treaties of 1817 *and* 1819.

By those treaties, Cherokees who desired reservations were required to file their applications therefor in the office of the Cherokee Agent. Prior to the conclusion of those treaties, your memorialist, a native Cherokee, had, agreeably to the custom of her tribe, become the wife of a white man by the name of William Reed, and by whom she had children, who, for her, and in her right, on the 3d day of August, 1819, entered his name with the Cherokee Agent, for a reservation of six hundred and forty acres of land, which registration is in the following words and figures, to wit:

(A)

Register of persons who wish reservations under the treaty of July 8th, 1819.

DATES.	Number of reservations.	NAMES.	No. in family.	PLACE OF RESIDENCE.
1819. Aug 3.	No. 243.	William Reed, (in right of his wife.)	(4)	On Tuckasege, below Tennessee Old Town.

At the time of registering for a reservation, she owned improvements, and resided on the land reserved, within the boundary ceded by the treaty of 1819; and within the limits of the grant made by the State of North Carolina to the Cherokee Indians in 1783. On the 9th day of October, 1820, Robert Armstrong, the agent appointed by the government of the United States, to locate the reservations granted under said treaties, surveyed the reservation of your memorialist. (See plat and certificate marked B.) In the latter part of the same month, the State of North Carolina, in denial of their rights, sold, at public auction, the reservation, to her citizens, who took possession thereof under the State's title.

The undersigned, being deserted by her husband, who abandoned

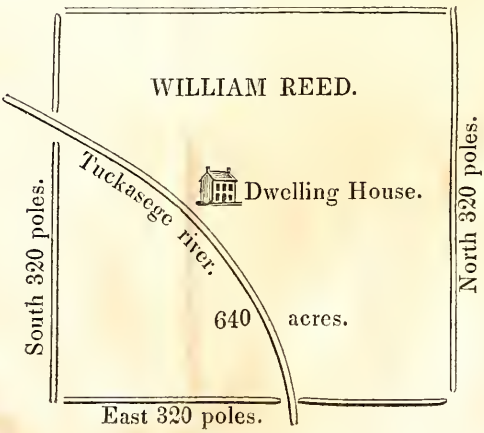
her and took another wife by the name of Coo-ti-ih—surrounded by a white population, whose language she did not understand—subjected to laws which afforded her no protection against threatened personal violence, because not allowed the benefit of her oath—and finding that the United States would not defend her title, being too poor to defend it herself, was compelled to abandon her reservation, and, with her small children, remove to her mother's, in the Nation; and the purchasers of the State's title have continued in possession of the lands set apart by the treaty for the permanent home of your memorialist and her children. Under the 13th article of the treaty of 1835, before your immediate predecessors, Messrs. Washington and Mason, the undersigned filed her claim for compensation, who examined it and ordered it to be valued by the agents appointed by the United States to value the claims allowed by the Board of Commissioners, who, as shewn, in their accompanying report, marked C, examined the land contained within the marked lines of the reservation, reported due from the United States to your memorialist and her children, $1905, valued as unimproved land, but which has not been paid. The undersigned therefore claims that the honorable Board complete the decree, *nunc protunc*, in her case, for the sum allowed, with interest from the date of the report, and that a certificate issue therefor.

NANCY REED,
For herself and children.

ANNA, (living West.)
NELLY, (Qualla, N. C.)
WILSON, " "
JENNY, " "

(B)

No. 44.



I have surveyed for William Reed, 640 acres of land, on both sides of the Tuckasege river. The beginning, at a stake, the north west corner; thence south 320 poles, to a double walnut, crossing the said river at 130 poles, at a bunch of lynns on the south side of said river; thence east 320 poles, to a small hickory, crossing the said river at 140 poles; thence north 320 poles, to a stake; thence west 320 poles, to the beginning. Surveyed the 9th day of October, 1820—including his improvements and house in the centre.

ROBERT ARMSTRONG,
Surveyor.

JONATHAN BLITHE, } *s. c. c.*
JEHU SHATTEEN. }

(See original, on file in your office.)

(C)

Valuation of the reserve, &c., taken by William Reed, in right of his wife, Nancy Reed, and children, made this 26th January, 1845.

This reservation is situated in Macon county, North Carolina, and lies on both sides of Tuckasege river, and covers the farms now owned by Jas. Hooper, Benjamin Allison, and a Mr. Brown, the south boundary line of said reservation crossing the river about one-quarter of a mile below the fork of the river.

120	acres	river bottom lands, worth	$10	per acre,	$1200
100	"	upland, good,	" 6	"	600
420	"	mountains, &c.,	"	25 cts per acre,	105
					$1905

N. S. JARRETT,
DILLARD LOVE.

FRANKLIN, N. C., 28th January, 1845.

Hon. Messrs. G. WASHINGTON } and JOHN T. MASON: }

Gentlemen:—So soon as Mr. Love returned home from Tennessee, we proceeded to execute the business, &c. * *

* * * * * * *

You will perceive that all these reservations are in that section of country treated for in the years '17 and '19; therefore the claimants have no right to improvements, as they have been occupied by the whites since the year 1820.

N. S. JARRETT,
DILLARD LOVE.

N. B. If our work is not in form, please correct us.

A correct extract from the original.

W. D. MILLER, *Secretary.*

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ARGUMENT

IN THE CASE OF NANCY REED AND HER CHILDREN,

Which is briefly stated in the preceding memorial and evidence.

This claim is for six hundred and forty acres of land, granted by the United States to the claimants, under the eighth article of the Cherokee treaty of 1817, and the second article of the treaty of 1819, which are in the following words:

"Art. 8. "And to each and every head of any Indian family "residing on the east side of the Mississippi river, on the lands "that are now, or may hereafter be, surrendered to the United "States, who may wish to become citizens of the United States, "the United States do agree to give a reservation of six hundred "and forty acres of land, in a square, to include their improve- "ments—which are to be as near the centre thereof as practicable; "in which they will have a life estate, with a reversion in fee "simple to their children, reserving to the widow her dower, the "register of whose names is to be filed in the office of the Chero- "kee Agent."

Treaty of 1819.—"Art. 2. The United States agree to pay, ac- "cording to the stipulations contained in the treaty of the 8th July, "eighteen hundred and seventeen, for all improvements on lands "lying within the country ceded by the Cherokees, which add real "value to the land, and do agree to allow a reservation of six hun- "dred and forty acres to each head of any Indian family residing "within the ceded territory, those enrolled for the Arkansaw ex- "cepted, who choose to become citizens of the United States, in "the manner stipulated in said treaty." (See book of Indian treaties, page 266.)

All the requirements of the provisions quoted were complied with, as the evidence accompanying the memorial fully establishes.

1st. The copy of the registration marked A, taken from the original in your office, proves that within the time required, Wm. Reed, as the representative of his Cherokee family, "in their right," registered his name with the Cherokee Agent, which was "filed in his office," and which, agreeably to the decisions of the Supreme Court of Tennessee, is conclusive. (See Yerger's Reports, vol. 5, page 327.)

2d. It also proves that the said Nancy Reed, in whose right the reservation was taken, at the time application was made, possessed all the necessary qualifications, which the agent, by the United States and Cherokee Nation was made the exclusive judge of.

3d. The registration further proves that the reservation was located, as required by the 2d article of the treaty of 1819, "within the ceded territory."

4th. The plat and certificate of survey marked B, proves that the location was not only made, but that the United States surveyor, Robert Armstrong, who was "*appointed to lay off the tracts reserved* in North Carolina," found the Cherokee family for whom the reservation had been taken, in possession of improvements at the identical place stated in the location, "on Tuckasege, below Tennessee Old Town," on the 9th day of October, 1820, and surveyed for them, as authorized to do, by the 11th article of the treaty of 1817, six hundred and forty acres of land, "including their improvements, and house in the centre."

5th. The report of the valuing agents, Messrs. Jarrett and Love, proves that the reservation claimed by Nancy Reed, is located within the cessions made by the treaties of 1817 and'19—that they are entitled to pay for the land, but not for the improvements—because the improvements have been made by the whites, who have had the reservation in possession since 1820. The said Jarrett and Love further report due from the United States to Nancy Reed and her children, as stated in the memorial, $1905.

The statement on file, of Col. Preston Starritt, marked D, proves that William Reed abandoned his wife Nancy and her children—gave himself up to dissipation, and died at Murphey, in 1843. His death is further proved by Col. C. K. Gardner, former Secretary to the Board, whose certificate is also filed in the case.

The affidavit of Col. Starritt further proves that he was present at the Council, when the Cherokee treaty of July 8, 1817, was concluded—that Gen. Jackson, in his presence, informed the Cherokees that he would draw the treaty so as to provide a reservation for each Cherokee family who was opposed to removal west, and who might wish to remain and become citizens of the United States—that "Ruth Philips, a half blood Cherokee woman, sug-
"gested to Gen. Jackson the propriety of so wording the article
"intended to secure the reservations so that the reservee should
"not have the power of selling the land during his life time, so as
"to deprive the wife and children of the benefit of the same—al-
"ledging that during the time allowed to register for those reser-
"vations, worthless white men might come in and marry Cherokee
"women, to take reservations, and then sell, and leave their fami-
"lies, and so deprive the persons intended to be benefitted by re-
"servations, of the same. On this suggestion, Gen. Jackson ex-
"pressed his determination so to frame an article in the treaty
"that such frauds could not be practised upon the Indians, and on
"the next day he read to Mrs. Philips, and others, the 8th article
"of the treaty of 1817, as well as I recollect, in the very words
"in which it is now found. * * * * * *
"Several persons present suggested changes in the language of
"the article; but Gen. Jackson informed them their wishes would
"be fully met in the article as it then stood—that no lawyer with
"an ounce of brains in his head, could misunderstand its language.
"The reservee could not sell or dispose of the reservation so as to
"deprive the widow and children of their several rights. Neither

"could the wife and children control the reservation during the "life time of the reservee."

The facts set forth in the evidence recited, are further sustained by the affidavit of Susanna, on file, taken in the Cherokee Nation West, which proves that she was acquainted, before her removal west, with William Reed and his family—that they took a reservation under the treaty of 1817, which was located on the waters of Little Tennessee, a "short distance above the mouth of Scott's creek, State of North Carolina—that they resided on the lands reserved, from before the conclusion of the treaty, up to 1821, at which time they were forced to abandon their reservation by the whites"—and that the present claimants, whose names are signed to the accompanying memorial, are the only children of William and Nancy Reed, and further, that they have received no compensation for their interest in said reservation.

Loo-giah-dioguh-nahsker, whose affidavit was also taken west, proves that the facts stated in the affidavit of Susanna, are true.

Thus was set apart and designated by metes and bounds, six hundred and forty acres of the land granted to the Cherokee Indians, in fee simple, by the State of North Carolina, in the year 1783, for the use of Nancy Reed and her children—in which, agreeably to the stipulations of the treaty under which the reservation was granted, Nancy Reed owned a life estate, which her husband had the right to enjoy while he continued with her, and remainder in fee to their children.

The treaty of 1819 was concluded on the 27th of February, and the General Assembly of the State of North Carolina, in the same year, passed an act authorising the survey and sale of all the lands, in that State, contained within the boundary of the cession. Under that act all the lands were surveyed and sold, except two reservations of six hundred and forty acres each, granted in fee simple, by the 3d article of the treaty, to Dick and the Big Bear. It is quite probable that at the time the act was passed the Legislature had no knowledge of any other reservations being located within the cession, or they would also have been provided for, and exempted from sale. But after the land was sold, and the whites had become the purchasers, it was too late to protect the reservees in the possession of their lands by legislation.

By the 10th section of the act of 1819, certificates were to issue to the purchasers of the State's title. "And be it enacted that the "said Commissioners shall give to each purchaser, a certificate, "describing the land by him purchased."

The 18th section of the act authorized the purchasers to eject the reservees, and all other persons, from the lands, in the name of the State. "Be it enacted, that each and every purchaser of any "section or sections of land, having obtained a certificate from the "Commissioners, as heretofore provided in this act, his heirs and "assigns, shall have full power and authority to institute an action "of ejectment, in the name of the State of North Carolina, against "any person or persons, who may be in possession of such sec-

"tion of land, and shall, on application, refuse to deliver up quiet "and peaceable possession thereof."

Under this act the lands granted to Nancy Reed and her children, were surveyed and sold to Messrs. Hooper, Cathey, and others, in the fall of 1819, who obtained the possession, as shown by the report of the agents, Messrs. Jarrett and Love, in 1820. In most cases, the survey of the reservations by the State—the sale thereof to her citizens—the certificates issued in their favor, and the reading of the law which authorized suits to be commenced in the name of the State, against the reservees, were sufficient to cause them to abandon the land. But in the case of the present claimants, it is proved that they remained on the land until personal violence was resorted to.

The United States, having acquired about 4,000,000 acres of valuable land under the treaties of 1817 and '19, worth at least $5,000,000, for which she was to pay for improvements and guaranty the titles to reservations granted under those treaties, which was the only compensation promised to two-thirds of the tribe who remained east, for their interest in that valuable cession. The United States having failed to pay for the improvements within the cession situated in North Carolina, and also failed to defend the titles to reservations, as she was bound by treaty to do—stipulated in the treaty of 1835 to indemnify the individual Cherokees for the losses they had sustained, in consequence of such failure on the part of the United States, to comply with the treaty obligations. The 10th article provided payment for personal losses, including improvements, "within the cession" of 1819, and the 13th article provided compensation for the reservations that had been sold, and which the reservees had been forced to abandon, to be paid for as unimproved lands.

"In order to make a final settlement of *all claims* of the Cherokees for reservations granted under former treaties, to any individuals belonging to the Nation, by the United States, it is therefore hereby stipulated and agreed, and expressly understood by "the parties to this treaty, that all the Cherokees and their heirs "and descendants, to whom any reservations have been made "under any former treaties with the United States, &c.; and which "reservations have since been sold by the United States, shall constitute a just claim against the United States, and the original "reservees, or their heirs or descendants, shall be entitled to receive "the present value thereof, as unimproved lands. * * * "And all such reservees as were obliged, by the laws of the States "in which their reservations were situated, to abandon the same, "or purchase them from the States, shall be deemed to have a just "claim against the United States, for the amount by them paid to "the States, with interest thereon, for such reservations, and if "obliged to abandon the same, to the present value of such reservations, as unimproved lands."

Under this article of the treaty, one of two things was necessary to be proved—either that the land was sold, or that the Cherokees

were forced to abandon their interest in the land reserved. In the case of the present claimants, it has been proved that the terms of the treaties of 1817 and '19 were complied with, as far as practicable—that the land was sold—that the reservees were forcibly dispossessed—and that they have never received any compensation for their interest in said reservation. It is further shown that William Reed abandoned his Cherokee wife and children, and, in consequence of which, he ceased to have any right with her to occupy the reservation, or to exercise any ownership over their property, under the laws of the State of North Carolina, or the Cherokee Indians.

The laws of North Carolina, in a conveyance of land in which a feme covert is interested, require that she shall sign the deed, and that she be privately examined "as to whether she doth voluntarily assent thereto." (See revised statutes of North Carolina, vol. 1, page 227.)

In the Cherokee laws it is provided in the case of white men marrying Cherokee women, as follows: "And in order to avoid "imposition on the part of any white man, *Resolved,* That if any "white man shall marry a Cherokee woman, the property of the "woman so married shall not be subject to the disposal of her hus- "band contrary to her consent. Any white man so married, and "parting from his wife without just provocation, shall forfeit and "pay to his wife such sum or sums as may be adjudged to her by "the National Committee and Council, for said breach of marriage, "and be deprived of citizenship.

"*And be it also resolved,* That it shall not be lawful for any white "man to have more than one wife: and it is also recommended "that all others should also have but one wife hereafter." (See American State Papers, vol. 2, page 283.)

While the first Commissioners under the Cherokee treaty were in session, application was made to them by the children of reservees, for the value of their reversionary rights to reservations which they had been compelled to abandon. The question of making payment was submitted to the War Department, and by the Secretary of War it was referred to the Attorney General (Mr. Butler,) for his opinion. On the 14th of May 1838, his opinion was given, in which he says: "The children of reservees, under "the 8th article of the treaty of 1817, were entitled, by the ex- "press words of that article, to reservations in fee simple. The "father having only a life estate, the estate of the children could "not be divested by any act of the ancestor; and if they have "been obliged by the laws of the States to abandon their rever- "sionary rights, or to purchase them from the States, they will be "entitled to compensation." (See opinions of the Attorney General, page 1183.)

Under the foregoing opinion in favor of the claims of the Indians being paid, it may be asked why their claims were not adjudicated and settled by the Commissioners? The following letters of the Commissioners of Indian Affairs contain the answer without the aid of comment:

"WAR DEPARTMENT,
"*Office of Indian Affairs, June* 19, 1838.

"GENTLEMEN: I am directed by the Secretary of War to instruct you, that in his judgment no payment whatever should be made on account of reservation claims under the treaties of 1817 and 1819, either to the Indian reservees or their assignees. But you are requested to proceed in and to complete the examination of these claims, and to report each case, and the testimony bearing upon it, in full to this Department. If, as there seems reason to apprehend, more extensive powers will be required to enable the agents of the Government to arrive at the truth, such measures as may seem proper will be adopted.

"Very respectfully, your ob't servant,
(Signed) "C. A. HARRIS.

"Messrs. JOHN KENNEDY,
" T. W. WILSON, and
" JAMES LIDDELL."

House Rep. Report, No. 391, *March* 29, 1844.

"On the 17th January, 1839, I informed them that it was believed the commission might terminate without injury to any public interest, and instructed them to complete at once all their registers, and transmit them at once to this office. Their report, which is dated 5th March last, was received on the 16th of the same month, and their records, documents, and papers soon after.

(Signed) "T. HARTLEY CRAWFORD."

From the foregoing letters the following facts are deducible:

1st. That the head of the Indian Bureau, for reasons best known to himself, intended to prevent the claims of the Indians against the United States for reservations, from being allowed and paid by the Commissioners appointed under the treaty for that purpose, in order to have them disposed of at the Indian Office.

2d. By the dismission of the Board, decisions were prevented under the favorable opinion of the Attorney General. The claimants applied to Congress to renew the Board. A resolution was passed in favor of its renewal, which lead to the appointment of Messrs. John H. Eaton and Edward B. Hubley—but with their appointment instructions issued from the Indian Office intended to control their action. But notwithstanding the efforts made to prevent the allowance of the claims of the Indians against the United States, a small number of the claims for pre-emption and reservation rights were allowed. Amongst the number was one of the same description as the one now under consideration, in favor of the children of Little Deer, in which the Board decided that as the children of Little Deer had not sold and conveyed their interest in the reservation granted to them under the 8th article of the treaty of 1817, and the 2d article of the treaty of 1819, they were entitled, under the 13th article of the treaty of 1835, to the value of their interest in the lands, which was decreed to be paid to them. (See book F, page 63, on file.)

A conflict then arose between the Commissioners and the Indian Office, which lead to the dismission of the Board. The claimants again made application to Congress for the passage of a resolution sustaining the Commissioners in the decisions they had made, which was passed—but the Indian Office had influence enough to prevent its being signed by the President. At the next Congress, (in March, 1844,) the application was renewed, and a resolution transferring the examination and payment of the claims from the Indian Office to the Secretary of the Treasury, was passed by an almost unanimous vote of the Senate, and about two-thirds of the other house, which received the approval of the President. An appropriation was also made to defray the expenses of two commissioners for one year.

The Board was renewed by the appointment of Messrs. Washington and Mason, who, on commencing their duties, as usual, received suggestions from the Indian Office, intended to have the effect of instructions, against the allowance of the claims of the Indians. They however made but few decisions before they were sent on another duty, to the Cherokee Nation West. Among the decisions made by them, was one in the claim of Choat's children, similar to the present, in which they say:

"1st. Had Shoat, a white man, any title to the reservation other "than that of an occupation in right of his wife, and at her suffer- "ance, and was he not a tenant at her will? 2d. Could Shoat, by "any act of his, divest his wife and children of the reservation "before or subsequent to the death of his wife? * * * *

"On the register he is stated to act in right of his wife, and the "register shows that in several cases the wife came forward and "took the reservation in her own name, although having a white "husband. Suppose Isabella, the Cherokee woman, should have "made the entry in her own name, and the husband did not "appear, where would have been his claim? It never would have "been dreamed of. Does it alter the case that he should go to "the agent and say: 'I come to take the reservation for my wife?' "What meaning can be attached to it, other than that his Cherokee "wife claims under the treaty, and he comes to present the right "granted to her and children?

"The question finally arises, was there a compliance, as far as "practicable on the part of the claimants, with the 13th article of "the treaty of 1835? It is conceded that the registry for the re- "servation was complete, with regard to the intention: and it has "been settled by the Supreme Courts of the States, that the regis- "try was evidence conclusive, and you could not go behind it.— "This is obvious, because the Commissioners could not possibly "enter into an investigation to disturb it. * * * * The "removal of Shoat, with the minor children, after the death of their "mother, could not affect their rights.

"The Commissioners, taking into consideration the whole sub- "ject which has been presented and deliberately examined, are of "opinion that the heirs of Isabella Shoat are entitled to receive

"compensation, &c. The award to the heirs of Isabella Shoat (or "Choat,) is for compensation for a reservation of six hundred and "forty acres of land, at $24 per acre, making the sum of $15,360." (See book F, page 130, on file in your office.)

Under the rule adopted in that decision, a favorable award was applied for on the claim of Nancy Reed and her children, now under consideration. The case was taken up, the evidence and argument examined, and, being embraced in the decision quoted, the lands contained in the reservation were ordered to be appraised by the agents appointed to ascertain the value of the claims allowed by the Commissioners. As shown in the evidence accompanying the memorial, the lands were examined and valued by the agents, and a report then made of the sum due from the United States to the present claimants. The report, however, did not reach the War Department until after the Commissioners had been sent to the Cherokee Nation West, to receive the claims of the Indians residing in that country, from whence they did not return until within a short time before the year for which they had been appointed expired—and that was spent in making a report of the business transacted west, which prevented the completion of the decree and issue of certificates in favor of the present claimants, and on other claims of the same description. Shortly after that commission expired, a claim for the value of a reservation granted under the same treaty as the one under consideration, was referred to the Attorney General, the Hon. John Y. Mason, at present Secretary of the Navy, for his opinion, which was given July 7th, 1846, in which he says:

"I have carefully examined the papers which you transmitted to "me in the case of David Taylor, who claims the assessed value "of a reservation of land, under the treaty with the Cherokees of "1835.

"David Taylor is a white man, who had lawfully married a Che- "rokee Indian woman, and by her had children. He had taken a "reservation of six hundred and forty acres in Highwassee district, "under the 8th article of the treaty of 1817. By its terms he was "entitled to a life estate, with the right of dower to his wife, and "reversion to their children. * * * *

"It must, however, be borne in mind that his claim is founded on "the treaty of 1817, and that he is entitled only to a life estate, "with the right of dower to his wife—their children being entitled "in fee. Such was the title to the land, and such is, of course, "the condition of the right to indemnity." He however finally recommended that the claim be referred to the Commissioners appointed under the 17th article of the treaty, for their decision. (See a certified copy, filed in your office.)

The opinions quoted in favor of the Cherokee reservees, are sustained by a decision made by the Supreme Court of the United States, in the case of Ladiga vs. Roland. In that case Ladiga, a Creek Indian, claimed a reservation under the Creek treaty of 24th March, 1832, and made application to the agent to locate her

lands, in accordance with the 2d article of the treaty, which authorized "every head of a Creek family to select one half section "each, which tracts were to be reserved from sale for their use," &c. A residence on the land five years was required before patents would issue to the Indians. In the case of Ladiga, she made application for a reservation and to become a citizen, which were both refused, and in 1837 she was forced to leave the country and emigrate to Arkansas, by armed troops in the employ and under the directions of the government. The land occupied by Ladiga, and which she claimed as a reservation, was sold by the President of the United States, and a patent issued by the Land Office therefor, in favor of Roland, against whom an ejectment was brought in the Courts of Alabama. The Supreme Court of that State decided in favor of Roland, against the Creek reservee. From that Court the case was carried to the Supreme Court of the United States, where it was decided at the January term, 1844, in favor of the Indian. In the opinion of the Court, delivered by Judge Baldwin, in that case, they say: "This sale (to Roland,) was a direct infrac- "tion of the solemn engagements of the United States in the "treaty. Though approved by the President, if the plaintiff had "previously selected it, according to the stipulations of the treaty, "in such case the sale was a nullity—for the want of any power "in the treaty to make it. The President could give no such "power, or authorize the officers of the Land Office to issue patents "on such sales, by reason of their collision with the treaty. The "only remaining inquiry is into the plaintiff's title. No other ob- "jection has been made to it than the refusal of the locating agent, "or his deputy, to recognize her right under the treaty, or to set "apart the land so located by her, opposite her name on the roll, "as in other cases, solely for the reason he assigned. We cannot "seriously discuss the question whether a grand-mother and grand- "children compose a family, in the meaning of that word in the "treaty—it must shock the common sense of all mankind even to "doubt it. It is incompatible with the good faith and honor of the "United States, and as repugnant to the Indian character, to sup- "pose that either party to the treaty could contemplate such a con- "struction to their solemn compact, as to exclude such persons "from its protection, and authorize any officer to force her from "her home into the wilds of the far west. Such an exercise of "power is not warranted by the compact, and the pretext on which "it was exercised, is wholly unsanctioned by any principle of law "or justice. Having a right, by the treaty, to select the land of "her residence—having selected it, and been driven from it by "lawless forces, her title remains unimpaired. * * * "She has never abandoned her claim, but has insisted on her rights "under the treaty.

"In our opinion, the plaintiff not only has a right to the land in "question, under the treaty, but one which it protects and guar- "anties against all the acts which have been done to her prejudice; "and we are much gratified to find in the able and sound opinion

"of the Supreme Court of Tennessee, on the Cherokee treaty of "1819, and the Supreme Court of Alabama on this treaty, a train "of reasonings and conclusions which we very much approve of, "and are perfectly in accordance with our opinion in this case.— "The cases are reported in 2d Yerger, 144, 432; 5th Yerger, 323; "5th Porter, Alabama Rep. 330, 427.

"The judgment of the Supreme Court of Alabama is therefore "reversed." (See Howard's Reports, vol. 2, page 588.)

In the foregoing decision, a fair sample is furnished of the treatment Indians receive from the different departments of the government. This poor Creek Indian made application to her Great Father—the President—to reserve her lands from sale, and afford her protection in accordance with the treaty provisions; but it is quite probable her application did not find its way beyond the Indian Office. There, policy in favor of removal being stronger than the treaty stipulation, the pretext was no doubt sustained, and the old Indian, whose grey hairs would have protected her from oppression among savages, was driven from her home at the point of the bayonet, into the distant wilds of the west. But when application was made to the other branch of the government—the Supreme Court—the treaty, and not policy, is regarded as the supreme law of the land, and a construction consistent with the intention of the parties, and with equity and justice, is established. And, as if for the purpose of guarding the Executive and Indian Office against establishing wrong constructions on the Cherokee treaty of 1819, in the conclusion of their opinion they apyrove the decisions made by the Supreme Court of Tennessee, in favor of the reservees under that treaty.

By the foregoing evidence and argument, the following facts are believed to be established:

1st. That the reservation of Nancy Reed and her children was well taken, and that "they have complied with the terms on which it was granted, as far as practicable."

2d. That the land was sold by the State of North Carolina, and the purchasers were authorized, under an act of the Legislature, to eject the reservees from it, in the name of the State; and that Nancy Reed and her children "were forced to abandon their reservation, under the laws of the State."

3d. That William Reed deserted his family, and thereby ceased to have any rights, in common with them, to the lands reserved.

4th. That the whites who became the purchasers of the reservation, have been in possession of it since 1820 or '21.

5th. That Nancy Reed and her children have never "sold, conveyed, or been paid for said reservation, or any part thereof."

6th. That under the 13th article of the treaty, they were entitled to be paid the value of the reservation as unimproved lands.

7th. That the claim has been examined by a board of Commissioners, passed on favorably, and the land valued by agents appointed by the United States, to value the claims allowed by the Commissioners.

8th. That the favorable opinion thus given, is sustained by a decision made by Messrs. Eaton and Hubley, in the case of Little Deer's children, and by a decision of Messrs. Washington and Mason, in the case of Choat's children.

9th. That it has been further sustained by the opinions of two Attorneys General, Messrs. Butler and Mason.

10th. That the rule of construction adopted in the opinions and decisions referred to, and the rights of the Cherokee reservees are further supported by a decision of the Supreme Court of the United States, in the case of Ladiga, a Creek reservee.

In conclusion, I have this apology to offer for submitting a long argument in so plain a case. It is intended to apply to all other claims of the children of reservees. And, as the treaty of 1835 has made it the duty of the United States, as admitted in the treaty of 1846, to pay for all the reservations, "as a just fulfilment of former treaties," the claimants, as well as the citizens settled on those reservations, in the States of Georgia, Alabama, Tennessee, and North Carolina, are anxious the United States should fulfil the obligation imposed by the treaty, and satisfy those claims, thereby secure to the Indian his dues, and to the white man his home.

The few claimants east, would, no doubt, be disinclined to commence suits against their white neighbors, even if the Board should refuse to pay for their reservations, because of the friendly relations which exist between them. At the same time it must be borne in mind, that the principal part of the claimants reside in the Cherokee Nation West, where a different relation exists between those Indians and the citizens of the States—and that already a suit has been commenced in the names of Miller's children, for a reservation granted to them under the Cherokee treaty of 1817, located in Tennessee, which has been sent up from the Supreme Court of that State, for a final decision by the Supreme Court of the United States, with a view of settling the question on reservations under the Cherokee treaties of 1817 and '19. If their decision should be in favor of the title of the children, to whom was granted the remainder in fee, will it not follow, as a consequence, that similar suits will at once be instituted for all the reservations not paid for by the Commissioners? In North Carolina upwards of eighty reservations were located, taken under the 8th article of the treaty of 1817, as continued and modified by the 2d article of the treaty of 1819. Of that number, in ten years, since the conclusion of the treaty providing for the adjustment and settlement of those claims, only four, located within the limits of North Carolina, have been settled. If suits should be brought for those remaining unsettled, it will be found that nearly every valuable tract of land in the county of Macon, and a considerable number in the county of Haywood, will be covered by reservations, besides those in other States; and on some of them flourishing villages have been built. And if the Indians recover the lands, they will not only be entitled to the value of the land without improvements, as they are now claiming under the treaty, but they will be entitled to the land with the im-

provements upon it, and for the rents and profits from the time they were dispossessed.

It is, I believe, admitted by this honorable Board, as well as their predecessors, that if the claims for reservations are not paid, the Indians can recover the land. If so, it may well be asked why should the United States withhold payment? The 13th article provides that all the reservations sold or abandoned, should be paid for as unimproved lands; and the 3d supplemental article expressly provides for the adjudication of all just claims on the United States, which may not have been embraced in the former articles of the treaty. Under these provisions the principal questions to be determined would seem to be: Did the Indians comply with the stipulations of the treaties, as far as practicable? Was the land sold by the United States, or by the States; or have the reservees been forced to abandon them? If so, the United States, having guarantied the title to the Indians for a valuable consideration received, is, in good faith, bound to make good that guaranty, by indemnifying those deprived of the land under the laws of the States.

I beg leave, therefore, to ask for the Indians, as well as the whites who are now in the possession of those reservations, who have bought and paid for them, and made valuable improvements on the lands, who are most to be injured if you should decide against the payment of the claims for reservations, that patient examination which the importance of the subject demands.

Respectfully submitted.

WM. H. THOMAS,
Attorney for the Eastern Cherokees.

March 18, 1847.

TO THE SENATE OF THE UNITED STATES.

Memorial in favor of the Cherokee Indians who have become citizens of the States of Georgia, Alabama, Tennessee and North Carolina.

The undersigned respectfully represents, that on the 8th day of August, 1846, a treaty was concluded between the United States and the Cherokee Nation West, in which the Eastern Cherokees, though not parties to it, are interested. He therefore, for them, begs leave to submit a short statement of facts explanatory of the questions referred to your honorable body for decision, by the 11th article of said treaty, which is in the following words:

"Whereas the Cherokee delegations contend that the amount expended for 'the *one year's subsistence*, after their arrival in the west, of the *Eastern* Cherokees, is not properly *chargeable* to the treaty *fund;* it is hereby agreed that '*that question* shall be *submitted* to the *Senate* of the United States for its *decision*, which shall *decide whether the subsistence* shall be borne by the *United States* or the Cherokee funds; and if by the Cherokees, then to say whether 'the *subsistence* shall be charged at a *greater rate* than *thirty-three, thirty-three and one hundredths dollars* per *head;* and *also the question whether the Cherokee Nation shall be allowed interest on whatever sum may be found due to the Nation*, 'and from what *date*, and at what *rate* per annum?"

Under the foregoing article, five questions are referred to the Senate. 1st. "*Whether the amount expended for one year's subsistence*, is chargeable to the treaty fund," or to the United States?

By the 8th article of the Cherokee treaty of 1828, made with the Cherokee Nation West, the expense of removing and subsisting the portion of the tribe then east, was to be borne by the United States. "The *Cherokee Nation west of the Mississippi*, having by this agreement, secured a large extent of unembarrassed country, &c." *It is further agreed on the part of the United States, that to each head of a Cherokee family now residing within the chartered limits* of Georgia, or *either of the other States east of the Mississippi*, who may desire to remove west, shall be given, on enrolling himself for emigration, a good rifle gun, &c., the cost of the emigration to be borne by the United States—"and *provisions for twelve months after their arrival at the Agency.*" The obligation imposed on the United States by the article quoted, to remove and subsist the Cherokees, was continued by the 8th article of the treaty of 1835. "*The United States also agree and stipulate to remove the Cherokees to their new homes, and to subsist them one year after their arrival there.*" Shortly after the ratification of the last named treaty, a question arose as to the allowance of claims for commutation of the year's subsistence, which was referred for decision to the War Department; and the decision was communicated by the Hon. C. A. Harris, Commissioner of Indian Affairs, to B. F. Curry, Superintendent of Cherokee removals, in his letter under date of November 18th, 1836, in which he says: "I acknowledge the receipt of your letter of the 26th of October last, 'and in reply have to observe, that I have taken the decision of the *Secretary 'War, ad interim*, upon the claim of the Cherokees for subsistence, at $33 33 'each. The *Secretary decides* that the commutation may be paid at the rate 'above stated; but at the *same time declares* that the *allowance is made under the 'treaty of* 1828, and not in *pursuance of any stipulations of the final treaty of* '1835." (See Senate Doc. No. 120, page 200, second session, 28th Congress.)

2d. If the first question be decided in favor of the United States, against the Cherokees, then "*whether the subsistence shall be charged at a greater rate than* $33 33 1-3 per head?" The 8th article of the treaty of 1835, after providing that the *United States shall remove and subsist* the Cherokees *one year*, further

provides: "*Such persons and families as, in the opinion of the emigrating agent,* '*are capable of removing and subsisting themselves,* shall be permitted to do so, 'and *they shall be allowed in full for all claims for the same, twenty dollars for* '*each member of their families;* and *in lieu of their one year's rations,* they shall 'be paid the sum of *thirty-three dollars and thirty-three cents if they prefer it.*"

By the interpretation placed on the article quoted, and the 12th article of the same treaty, individuals and families of the same tribe who were capable of removing and subsisting themselves, or to become citizens of the states, were allowed to commute their right to those benefits in kind, for twenty dollars for removal, and thirty-three dollars and thirty-three and one-third cents for the year's subsistence, which being regarded by the United States as full compensation to the Indians for all *claims* for removing and subsisting themselves, would seem to be, in like manner, full compensation to the United States for the same objects.

3d. "*Whether the Cherokee Nation shall be allowed interest on whatever sum may be found to be due?*" By the treaty of 1835, the United States were made the trustee of the funds to be paid to the Cherokees under it; and in that capacity were to pay each Cherokee the amount due to him under the treaty. Instead of applying the trust fund created by the acts of July 2d, 1836, and June 12th, 1838, to the payment of individual Cherokees, it is admitted in the treaty of August 1846, that the United States converted the money to their own use. A private individual under the same circumstances, in a court of equity, would be required to pay interest.

4th. If the 3d question be decided in favor of the Indians, "*at what date*" *shall the interest commence?* The 12th article of the Cherokee treaty of 1835, provides that the Cherokees who remained and became citizens of the states should be paid all their dues under the treaty as soon as an appropriation was made therefor. "*Those individuals and families of the Cherokee Nation that are averse* '*to a removal* to the Cherokee country *west* of the Mississippi, and are desirous 'to become *citizens of the states* where they reside, &c., shall be entitled to re-'ceive their due portion of all the personal benefits accruing under this treaty, 'for their claims, improvements, and per capita, *as soon as an appropriation is* '*made for this treaty.*" The appropriation for this treaty was made July 2d, 1836.

5th. *What rate per annum shall be paid* to the Indians for the trust fund converted to the use of the United States? The lowest rate of legal interest in the United States is six per cent. The United States have been and are now paying that rate for the use of money.

The undersigned has confined himself to a statement of facts, without attempting to elucidate them by argument. And, in conclusion, he begs leave to ask for the Cherokees east, who have ceased to be members of their own nation, and become a part of the American people, your favorable consideration.

WM. H. THOMAS,
Agent for the Eastern Cherokees.

December 29th, 1845.

IN SENATE OF THE UNITED STATES.

February 19, 1847.
Submitted, and ordered to be printed.

Mr. Jarnagin made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the memorial of David Vann and William P. Ross, delegates from the Cherokee nation, respectfully report the following facts, which will enable the Senate to decide the various questions upon which the Cherokee delegation and the commissioners appointed to treat with them in July last could not agree, and which, by the terms of the treaty of the 6th of August, 1846, were to be submitted to the arbitrament of the Senate, whose award was to constitute a part of that treaty. The peace and happiness of the Cherokee nation so imperiously demanded the immediate adoption of that treaty, that the Cherokee delegation could not refuse their assent to it—leaving certain questions to the arbitrament of the Senate. Peace and quiet have been restored in the Cherokee country, and it now only remains for the Senate to decide the questions which have been submitted to it, that the account may be finally made up and closed.

The first of these questions is, whether, by the treaty of 29th December, 1835, it was the understanding of the parties that the various sums since charged to the five million fund given by that treaty have been properly so charged. On the 28th February, 1835, a delegation from the Cherokee nation proposed to submit the terms of a treaty to the arbitrament of the Senate of the United States. In considering the subject, the Senate only looked to the value of the lands, and have so said in language the most explicit. The preamble to that treaty recites the submission which had been made to the Senate, and then adds: "and whereas, on such submission, the Senate advised that a sum not exceeding five millions of dollars be paid to the Cherokee Indians for their *lands and possessions* east of the Mississippi river." The sole consideration stated for the five millions was "their lands and possessions east of the Mississippi river." If any thing else had been intended to be included, such as claims for spoliations, subsistence, removal, &c., why was it not so stated in the treaty? It is enough to show that it is not so stated; but it is manifest that such was not the intention of the parties; for the amount of these spoliations, the expense of removal, &c., were not then known, and could not have been ascertained; and besides, there were subsisting claims upon the government of the United States, which they were bound by treaty to have paid. Not to pay them, or to pay them out of the funds of the Cherokees which had been fixed by the Senate as the value of their lands, was precisely the same thing.

Ritchie & Heiss, print.

The United States were bound by the treaty of 1828 to pay the expenses of the removal of all the Cherokees. This obligation was not released by the purchase of their lands at their appraised value. Would such a thing be pretended in a similar transaction between individuals? If all the Cherokees had removed before they ceded their lands, the United States were bound to pay the cost of removal. If the United States afterwards bought the lands of the Cherokees, they were bound to pay the price at which they were appraised. The first article of the treaty recites that "the Cherokee nation hereby cede to the United States their lands east of the Mississippi river, and hereby release their claims for spoliations of every kind, for and in consideration of $5,000,000; but as a question has arisen between the commissioners and the Cherokee people whether the Senate, when they advised that a sum not exceeding $5,000,000 be paid the Cherokee Indians for their lands and possessions east of the Mississippi river, had included or made any allowance for claims for spoliations, it is therefore agreed on the part of the United States that this question shall be submitted to the Senate for their consideration and decision; and if no allowance was made for spoliations, that then an additional sum of $300,000 be allowed for the same." It will be seen by the above that subsistence and removal were not included in the above article, nor was any question as to either of those items then even thought of. But the only thing pretended to be charged upon this fund was *spoliations*. The Senate decided that the sum of $5,000,000 was given for the lands alone, and a supplemental article giving $600,000 was added to pay for spoliations and removal, but still not including subsistence. That sum it was then thought would be sufficient to cover these charges; but it was found that it was not; and the United States, feeling that they were bound to pay these charges, again, in 1838, appropriated $1,047,000 for these objects. The Cherokee nation does not contend that the treaty fund shall be relieved from the charge for spoliations, but only from the cost of one year's subsistence and removal to the west. Both of these sums, which were added by Congress, were found inadequate to pay these various charges, and the fund of five millions has been used for that purpose and others, to its entire exhaustion, or nearly so. They ask to be relieved from the charges for removal and subsistence. It is very clear that not until after the exhaustion of the $600,000 and the $1,047,000 did the officers of the government of the United States ever once think that the $5,000,000 was liable for these charges. Not one dollar of that fund was ever so used until then. The following communication from the then Secretary of War shows that his understanding was, that this fund was not liable for these charges, or else he would not have made the requisition for the sum of $1,080,000; that is to say, $1,047,000 for these purposes, and $33,000 for annuities. Congress made the appropriation at once, which shows that the opinion of that body was the same. If the five million fund was liable for these charges, how could the Secretary have said that there were no funds to meet them, when there was the five million fund? Why did Congress make this additional appropriation? The only answer which can be given is, that it was considered just under the treaty, as the Senate had said, when the subject was a second time referred to that body for its decision on this specific question, that the treaty fund of five millions was not liable to be charged with these expenses.

[Doc. No. 401, 2d session 25th Congress.]

DEPARTMENT OF WAR, *May* 25, 1838.

SIR: In compliance with the resolution of the House of Representatives of the 23d instant, requiring a statement of the amount that will be required for the additional allowance proposed to be made to the Cherokees, I have the honor to present the following estimate:

The payment of the expenses of removing the remaining Cherokees, estimated at 15,840, at $30 per head -	$475,200 00
Amount applicable to that purpose - - -	39,300 00
Balance to be provided for - - - -	435,900 00
If it should be deemed proper to make any further provision for the payment of the subsistence of the emigrants for one year after their arrival west, it will require, estimating the whole number at 18,335, thereby including those who have already emigrated, and allowing the amount stipulated, viz: $33 33 a head -	611,105 55
Add for contingencies, under estimates both of number to be removed and of expenses to be incurred - -	100,000 00
The amount of annuities, payment of which is asked for by the deputation, will be - - - -	33,330 00
	1,180,335 55

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. J. K. POLK,
Speaker House of Representatives.

But this is not all. The question was submitted to the Secretary of War for his decision on this specific point, and he decided that these charges of subsistence and removal were not chargeable to the treaty fund, but to the government of the United States, under the treaty of 1828.

Shortly after the ratification of the treaty of 1835, a question arose as to the allowance of claims for commutation of the year's subsistence, which was referred for decision to the War Department; and the decision was communicated by the Hon. C. A. Harris, Commissioner of Indian Affairs, to B. F. Curry, superintendent of Cherokee removals, in his letter under date of November 18th, 1836, in which he says: "I acknowledge the receipt of your letter of the 26th of October last, and in reply have to observe, that I have taken the decision of the Secretary of War *ad interim* upon the claim of the Cherokees for subsistence at $33 33 each. The Secretary *decides* that the commutation may be paid at the rate above stated; but at the *same time declares* that the *allowance is made* under the *treaty of* 1828, and not in *pursuance* of any *stipulations* of the *final treaty of* 1835." (See Senate Doc. No. 120, page 200, 2d session 28th Congress.)

The treaty fund was never touched, nor was it ever pretended that it was liable for these charges, until after the appropriations made for these specific objects had been exhausted. Now it seems very clear that if the government of the United States was liable for these charges when the

additional sum of $600,000 was given, and then again when the further sum of $1,047,000 was given, it is equally liable now for whatever may remain of these charges, after both of these sums have been exhausted. The magnitude of the obligation cannot be held to release the party from its fulfilment.

The thirteenth article of the treaty which stipulates, on the part of the United States, to pay for reservations of which the Indians had been deprived, closes with the following words: "It is expressly understood that the amount to be allowed for reservations under this article shall not be deducted out of the consideration money allowed the Cherokees *for their claims for spoliations, and the cession of their lands;* but the same is to be paid for independently by the United States, as it is only a just fulfilment of former treaty stipulations." Here, again, the consideration given is stated. And what is that consideration? Why, *claims for spoliations and the cession of their lands*—not a word said about any thing else; and this because "it is only a just fulfilment of former treaty stipulations." Does not this apply equally to the payment for removal and subsistence? The government was bound to do this by the treaty of 1828, and again by the 8th article of the treaty of 1835:

"ART. 8. The United States *also* agree and stipulate to remove the Cherokees to their new homes in the west, and to subsist them one year after their arrival there, &c., &c. Such persons and families as, in the opinion of the emigrating agent, are capable of removing and subsisting themselves, shall be permitted to do so, and shall be allowed, in full for all claims for the same, $20 for each member of their family, and in lieu of their one year's rations they shall be paid the sum of $33 33, if they prefer it."

What does the word *also* in the above article mean, unless it be that this removal and subsistence shall also be paid in addition to the price given for their lands? Is there any other imaginable meaning that can be given to it? the more clearly so, as the United States were bound by the subsisting and unabrogated treaty of 1828 to pay these charges. But if neither the cost of removal nor subsistence is to be paid by the United States, it is too clear to admit of contradiction that there is neither justice nor right in charging the treaty fund with more than $33 33 for subsistence, nor more than $20 for removal. That was the sum which the United States was willing to allow; the sum which was fixed on as fair and proper. If the United States made it cost more, there is no justice in charging the excess to the treaty fund; but all such excess should be borne by the United States. So of the removal. The Indians were detained more than a month after they were assembled and ready to remove. This expense should also be borne by the United States, and all losses sustained on the resale of provisions which were not needed nor consumed.

As to the justice of interest, the committee have no doubt. If the treaty fund had not been charged improperly, as it is now acknowledged, the money would have been paid twelve years ago. This was in nowise the fault of the Cherokees, but of the officers of the government of the United States. The Cherokees have for all this time been deprived of the use of money justly due them, and the United States have had the use of it for their own benefit. They have been paying interest on money borrowed all this time, and would have had to pay that interest on a larger sum if

they had paid the Cherokees what was justly due them. It is not the case of a claim of an individual, but of a people treated with as a nation; and not to have paid it was a violation of a treaty, and must be repaid now. For the claims of American citizens on Mexico and other governments, interest has been claimed by our government and allowed.

By the treaty of 1805 three valuable tracts of land in Tennessee were reserved to the Cherokee nation, and guarantied by the United States. These lands were taken and held under North Carolina or Tennessee grants, and the Cherokee nation deprived of them. They ought to be paid for, and your committee recommend that the sum of $10,000 be paid on that account to the treasurer of the Cherokee nation. So, by the treaty of 1819, twelve miles square were reserved in Alabama for an education fund, amounting in all to 93,558 acres. Of these lands 53,436 acres remain unsold. Your committee recommend that the United States take these lands at 62½ cents per acre, which is the price for which the United States sold lands of less value in the west to the Cherokees. All connexion of that people with the country east of the Mississippi is now dissolved, and, considering the loss which they have suffered, your committee think the request a reasonable one, and one by which the United States cannot lose any thing.

Your committee see no just ground for paying for the public buildings, turnpike roads, &c., in the Cherokee country east of the Mississippi river. The committee therefore report, and recommend the adoption of the following resolutions:

Whereas, by the treaty of the 6th of August, 1846, between the United States and the Cherokee Indians, certain questions were agreed to be submitted to the decision of the Senate:

1. *Resolved*, That, in the opinion of the Senate, whatever balance of the fund of $5,000,000 stipulated to be paid to the Cherokee nation by the treaty of the 29th December, 1835, and the subsequent additions thereto, may now be ascertained to be due to the said Cherokee nation, shall bear an interest at the rate of five per cent. per annum from the time found due until the same be paid by the United States.

2. *Resolved*, That the charge for one year's subsistence of the Cherokees, after their arrival in the west, is not a proper charge upon the fund of $5,000,000 aforesaid, but should have been paid independently of that fund, by the United States.

3. *Resolved*, That the expense of removing the Cherokees to the west should, in like manner, have been borne by the United States, and not charged to the fund of $5,000,000 aforesaid.

4. *Resolved*, That the United States will pay to the Cherokee nation the sum of $10,000 for lands guarantied to the Cherokee nation by the treaty of Tellico, signed 25th October, 1805, and of which the said Cherokee nation was deprived by the authority of the State of Tennessee, and the further sum of $35,568 for the balance remaining unsold, by the United States, of a reservation of twelve miles square in Alabama, secured to the Cherokee nation by the treaty of 27th February, 1819, being at the rate of 62½ cents per acre.